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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,586	11/17/2000	Peter Worthington Hamilton	5922R2C	5737

27752 7590 06/28/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,586

Applicant(s)

WORTHINGTON HAMILTON ET AL.

Examiner

Victor S. Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,9-12,14-18,41,47-52,54-58,66,81,95,97-103 and 105-108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,9-12,14-18,41,47-52,54-58,66,81,95,97-103 and 105-108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Introduction

1. In view of the Appeal Brief filed on 4/13/2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Rejections not maintained are withdrawn. In particular, Applicants' argument "... Reed reference teaches that the material may be adhered to a surface by the application of sufficient pressure of a hand or a roller to deform ... The teaching of Reed relate to a compress force ... Nothing in the reference teaches or suggests the application of a tensile force to the material ..."

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(Brief, page 3) has been carefully considered and is persuasive, because tensile elongation will not cause Reed's collapsible particles being collapsed. In other words, Reed's adhesive layer will not be exposed ("activated") under tensile force. As such, the rejection over Reed is withdrawn. However, a new search is required, and yielded a new reference which renders the instant invention obvious. Applicants' arguments are moot in view of the following new grounds of rejections.

Rejections Based on Prior Art

4. Claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103, 105-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilbur (US 2338749) in view of in view of Sanders (US 5344693) and Applicants' admitted prior art.

Wilbur's invention relates to wrappers of flexible paper or other equivalent sheet material (column 1, lines 1-3). Wilbur teaches that the invention can be embodied in a label, wrapper, envelope or other article of flexible sheet material intended for other uses (page 1, column 2, lines 34-37). Fig. 7 shows that an embodiment in which a multiplicity of pin punctures 16 each of which is surrounded by an outstanding tubular burr 17, and surrounded by a coating of permanently sticky or tacky adhesive 18. The outstanding burrs 17 serve as means for normally shielding the adhesive coating against accidental contact with other objects. When end portions are overlapped and pressed together, the burrs or bosses 17 are collapsed, the ends are united by the adhesive (page 2, column 1, line 48 to column 2, line 8).

For independent claims 41 and 95, Wilbur lacks a teaching that the flexible sheet material is non-porous and activatable by a tensile force. However, Sanders' invention relates to a

spacing means for a web of material (column 1, lines 60-62). The spacing means is capable of maintaining a separation of a surface carrying an adhesive and an adjacent surface until it is required that the two surfaces shall unite one with another by the adhesive (column 1, lines 10-13). In Fig. 4, Sanders clearly shows an embodiment of inherently non-porous non-adherent protrusions being surrounded by adhesive as claimed (column 2, lines 16-18). It would have been obvious to one of ordinary skill in the art to modify Wilbur's wrapper with Sanders' non-porous non-adherent protrusions, motivated by the desire to obtain a wrapper with a known alternative suitable spacing means for adhesive sheets, because the selection of a known equivalent material based on its suitability for its intended use supported a *prima facie* obviousness determination. See MPEP § 2144.07. As to the limitation "activatable by a tensile force", since the spacing means of Sanders are structurally the same as the protrusion of instant invention (Fig. 3), in the absence of evidence to the contrary, it is the Examiner's position that "activatable by a tensile force" is an inherent property of the structure of Sanders. Finally, Wilbur lacks a teaching that the wrapper is conformable and has a small resiliency. However, Applicants have admitted that it is known art that sheet materials with clinging character (i.e., cling film) can be wrapped around an item such that they cling to the item, so as to form a fully enclosed (sealed) container structure to preserve food (specification, page 1, lines 26-35). In other words, i.e., a cling film which wraps around a container (conformable), and forms a fully enclosed container, which necessarily requires that the cling film does not exert undue restorative forces and does not break contact (low resiliency) with the surface of a container, is known art. It would have been obvious to one of ordinary skill in the art of wrapper to modify Wilbur's wrapper with a known conformable and low resilient sheet material, as admitted by Applicants,

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motivated by the desire to provide suitable physical properties to a wrapper for fully enclosed (sealed) applications. In summary, the combined teachings of prior art render the instant invention obvious at the time the invention was made, with a reasonable expectation of success.

For claims 1, 11, 51, 81, 99, 102, 103 and 107, Applicants have admitted that it is known art that a suitable wrap sheet materials (cling film) can be used to form a closure for a container, as set forth above.

For claims 9, 47, 49 and 106, regarding the amount of adhesion peel force and tensile force, the Examiner notes that since the combined teachings of prior art teach in general the same subject matter (non-porous adhesive sheet), for the same use (wrapper film), and the utility as such dictates there would be similar forces for use, in the absence of unexpected results, a suitable amount of adhesion peel force and tensile force are considered as being obvious optimization to one skilled in the art of adhesive wrappers, because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

For claims 10, 48, 50, 97 and 105, regarding the instantly claimed methods of use (selective activation of adhesion in discrete regions), the Examiner notes that Applicants have admitted that it is known art that sheet materials with clinging character (i.e., cling film) can be used to form a closure for a container, which clearly encompasses selective activation at contact regions between the wrapper film and the container.

For claims 12, 52, 100 and 108, it is noted that Applicants have admitted that it is known art that a clinging film may be folded or wrapped around an item such that they cling to the item and/or to themselves. The clinging character of such materials also permits their use in

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combination with semi-enclosed rigid, semi-rigid, or flexible containers to provide a fully enclosed container structure (specification, page 1, lines 28-31). As such, it would have been obvious to one of ordinary skill in the art to modify the wrapper film of Wilbur in view of Sanders to coat adhesives on both sides of the wrapper, motivated by the desire to obtain a film which is able to cling to the item and/or to themselves to provide a fully enclosed container structure.

For claims 14, 54, 66 and 101, Wilbur expressly teaches that the adhesive is permanently sticky or tacky, as set forth above.

For claims 15, 16, 18, 55, 56 and 58, Applicants admitted that polymeric materials such as PVC, PVDC and PE are commonly used to form a cling film (specification, page 1, lines 24-25), and they are well known to be substantially translucent or transparent non-tacky film materials.

For claims 17 and 57, Sanders clearly shows in Fig. 4 that the adhesive has a thickness less than the height of non-adherent protrusions.

Finally, for claims 98 and 106, Sanders expressly teaches the use of a pressure sensitive contact adhesive (column 2, lines 49-55), which inherently requires a compression force for adherence at interface..

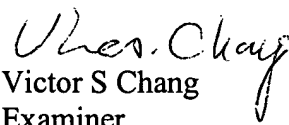
Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Victor S Chang
Examiner
Art Unit 1771

5/24/2006


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